IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 19003 of 2004

Between:

M/s. Sri Veera Venkata Satyanarayana Rice Mill a partnership firm rep by Partner Sri Gade, Satyanarayana S/o GVSV Raghavulu R/o Palakole, West Godavari District

..... PETITIONER

AND

1 State Bank of India repby Branch Manager Poolapalli Branch (Polakol Mandal) West Godavari District
2 Recovery Officer, Debt Recovery Tribunal, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction or direction and more particularly one in the nature of Writ of Certiorari calling for the records pertaining to common order made in M.A. No. 100 of 2004 & MA No. 130 of 2004 dt 27-8-04 on the file of the Hon'ble Debts Recovery Appellate Tribunal, Chennai Filed against M.A. No. 74 & 75 of 2003 in O.A. No. 442 of 2002 dt 30-4-2004 on the file of the Debts Recovery Tribunal, Visakhapatnam and quash the same as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioner: MR.P.A.V.BALAPRASAD

Counsel for the Respondent No.: MR.V.JOGAIAH SARMA

The Court made the following :

ORDER: (Per BSSR,J)

This writ petition is directed against the common order, dated 27-08-2004 passed in M.A.Nos. 100 and 130 of 2004 by the Debt Recovery Appellate Tribunal, Chennai.

Learned counsel for the petitioners submits that the condition to deposit 30% of the suit amount is onerous and therefore, the same is required to be set aside.

Petitioners are defendants in O.A.No.442 of 2002, and an ex parte decree came to be passed against them on
18-07-2003. Subsequently, they filed M.A.No 75 of 2003 to set aside the ex parte decree and M.A.No.74 of 2003 for condonation of delay. The learned Debt Recovery Appellate Tribunal dismissed both the petitions, by order, dated 30-04-2004. Assailing the said order, the petitioners filed appeals before the Debt Recovery Appellate Tribunal, Chennai. Learned Appellate Authority allowed both the applications subject to condition of depositing 30% of the suit amount i.e. Rs.16,34,537/- by the petitioners. Aggrieved by the said condition, the defendants filed the present writ petition.

Heard the learned counsel for the petitioners.

We do not see any valid ground to interfere with the order passed by the learned Debt Recovery Appellate Tribunal.

Learned counsel for the petitioners seeks extension of time for deposit of 30% of the suit amount i.e. Rs.16,34,537/- by the petitioners.

Keeping in view the quantum of amount, we deem it appropriate to extend time by four weeks from today, for compliance of the condition stipulated by the Debt Recovery Appellate Tribunal in M.A.Nos.100 and 138 of 2004.

Accordingly, the writ petition is disposed of extending time for depositing of the amount by four more weeks. No order as to costs.

_____

(K.C.BHANU,J)

_____

(B.SESHASAYANA REDDY,J)

19-10-2004

klp/ghn

To

1 The Branch Manager, State Bank of India, Poolapalli Branch (Polakol Mandal) West Godavari District
2 Recovery Officer, Debt Recovery Tribunal, Visakhapatnam

3. Two C.D. copies.